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9259/3731

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Kwan-Ho Chan
Serial No.: 09/811,953
Filing Date: 03/19/2001
Title: SURGICAL REPAIR KIT AND ITS METHOD
OF USE
Group Art Unit: 3731
Examiner: Unknown
Attorney's Docket No.: MIT-53 CON 5

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Mail Stop Petition
Commissioner for Patents
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I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED
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FOR PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450, ON:

September 13, 2004

(DATE OF DEPOSIT)

James A. Sheridan

(NAME OF ATTORNEY)

James A. Sheridan 9/13/04

(SIGNATURE)

September 13, 2004

(DATE OF SIGNATURE)

Sir:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.18(a)

Applicant respectfully petitions the Director to withdraw
the NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) OR (g) in the
above-identified patent application, inasmuch as a copy of the
DECLARATION AND POWER OF ATTORNEY signed by the inventor was
submitted with the application as originally filed on March 19,
2001.

A statement of the facts involved is provided hereinbelow.

MIT-53 CON 5

On March 19, 2001, the above-identified patent application was filed as a continuation application, in accordance with Rule 1.53(B), of prior application Serial No. 09/111,237, filed 07/07/98 by Kwan-Ho Chan for SURGICAL REPAIR KIT AND ITS METHOD OF USE, which in turn is a continuation application of application Serial No. 08/727,027, filed 10/08/96 by Kwan-Ho Chan for SURGICAL REPAIR KIT AND ITS METHOD OF USE, which is in turn a continuation of application Serial No. 08/234,840, filed 04/28/94 for SURGICAL REPAIR KIT AND ITS METHOD OF USE, which is in turn a continuation-in-part of application Serial No. 08/090,651, filed 07/12/93 by Kwan-Ho Chan for SURGICAL REPAIR KIT AND ITS METHOD OF USE. A transmittal letter (identified as "REQUEST FOR FILING RULE 1.53(B) CONTINUATION APPLICATION") was submitted with the above-identified patent application as filed and clearly indicated that "Submitted with this request are the following: 1. A true copy of said prior application Serial No. 08/234,840 (including specification, claims, drawings and an unsigned Declaration and Power of Attorney) as originally filed; 2. A copy of (i) a NOTICE TO FILE MISSING PARTS OF APPLICATION - FILING DATE GRANTED, (ii) a RESPONSE TO OUTSTANDING NOTICE TO FILE MISSING PARTS OF APPLICATION - FILING DATE GRANTED, (iii) a DECLARATION AND POWER OF ATTORNEY listing the name of the inventor and signed by the inventor, Kwan-Ho Chan, specifically identifying the grandparent of this application (i.e., application Serial No. 08/234,840) by serial number and filing date..." (Underlining added).

Applicant's attorneys have reviewed their copy of the above-identified patent application as filed and respectfully submit that a copy of the DECLARATION AND POWER OF ATTORNEY signed by the inventor, Kwan-Ho Chan, was filed in the

above-identified patent application on March 19, 2001, as indicated hereinabove.

Accordingly, Applicant requests that the Director withdraw the NOTICE OF ABANDONMENT.

A NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION - FILING DATE GRANTED, mailed on May 31, 2001 by the U.S. Patent and Trademark Office, indicated that the oath or declaration is unsigned.

A RESPONSE TO OUTSTANDING NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION - FILING DATE GRANTED was filed on July 31, 2001 by Applicant. In that response, Applicant requested reconsideration of the requirement to file a signed oath or declaration inasmuch as this application is a continuation case, and the necessary declaration was submitted in the grandparent application (U.S. Patent Application Serial No. 08/234,840, which is now U.S. Patent No. 5,562,683, issued 10/08/96 to Kwan-Ho Chan) and indicated that a copy of the previously filed RESPONSE TO OUTSTANDING NOTICE TO FILE MISSING PARTS OF APPLICATION - FILING DATE GRANTED was included in the filing of the present application.

A NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL) mailed on November 19, 2001 by the U.S. Patent and Trademark Office indicated that the oath or declaration was unsigned.

On November 27, 2001, a telephone call was made by the undersigned attorney to Ms. Joyce Rowley at the Initial Patent Examination Division (1-703-308-1202) concerning the NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL) mailed by the U.S. Patent and Trademark Office on November 19, 2001 and received at Pandiscio & Pandiscio, P.C. on November 26, 2001. Ms. Rowley indicated that the above-identified application was being processed and that no

reply is necessary. A telephone call was made to the Office of the Commissioner for Patents on the same day, November 27, 2001, to telephone number 1-703-305-8800. A receptionist at the Office indicated that an Examiner would return the telephone call later that morning. Examiner Michael Ball called regarding the status of the above-identified application. Examiner Ball indicated that he would call again with additional information after he received the file. At 10:30 AM on November 27, 2001, Examiner Ball called again to indicate that the application is being processed, is not in serial number order, and cannot be located. Examiner Ball indicated that the U.S. Patent and Trademark Office will withdraw the Notice of Incomplete Reply after the file is re-checked in about two weeks.

A NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) OR (g), mailed on August 30, 2002 by the U.S. Patent and Trademark Office, indicated that no reply was received and that the above-identified application was abandoned for failure to timely or properly reply to the Notice to File Missing Parts mailed on May 31, 2001.

The undersigned attorney left a voice-mail message on Examiner Michael Ball's telephone at 1-703-308-2058 concerning the Notice of Abandonment. Examiner Ball then left a message at Pandiscio & Pandiscio, P.C. indicating that Group 1733 never had the above-identified patent application, that the application never made it out of initial examination, and indicated that OIPE should be contacted with further questions.

A telephone call was made to the Office of Initial Patent Examination (OIPE) regarding the Notice of Abandonment. A representative at OIPE directed Applicant's attorney to call Examiner Valerie Kinard at 1-703-305-3974 as she is the Examiner

that abandoned the above-identified patent application. A voice-mail message was left on Examiner Kinard's telephone at 11:50 AM. No telephone reply from Examiner Kinard has been received.

The undersigned attorney left another voice-mail message with Examiner Valerie Kinard at 1-703-305-3974 regarding the above-identified patent application. No telephone reply from Examiner Kinard has been received.

In view of the foregoing, Applicant respectfully requests that the Director withdraw the Notice of Abandonment. As discussed hereinabove, Applicant submitted a signed Declaration at the time of filing, timely requested reconsideration of the NOTICE OF MISSING PARTS, and attempted to contact appropriate officials at the U.S. Patent and Trademark Office.

In the event that any additional fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.

Thank you.

Respectfully submitted,

James A. Sheridan 9/13/04
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